

## REMARKS

Claims 1-14 are pending in this application. Claims 1, 3 and 14 have been amended. No new matter has been introduced.

Independent claims 1 and 14 and dependent claims 2-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lundholm et al. U.S. Patent No. 6,648,107. Applicants respectfully traverse the foregoing claim rejections for the reasons set forth hereinafter.

Applicants' claimed invention is directed to embodiments of a new switching device for and a new parking brake having a handle movable between a first position for engaging the parking brake and a second position for releasing the parking brake. The handle is subjected to a preload force toward a third position between engaged and disengaged positions substantially free of forces urging it into either engaged or disengaged position. *See e.g.*, Figs. 2a, b and paragraphs [0022]-[0024] of the present patent application. Depending on the position of the handle, an evaluation device outputs different control signals for an actuating device of the parking brake. Since the handle returns to the third position by virtue of the preload force after each actuation, the command to engage or release the parking brake can be transmitted at any time. *Id.* at [0027]

Applicants have amended claims 1, 3 and 14 to more distinctly claim the foregoing. No new matter has been introduced.

The Lundholm patent cited by the Examiner describes embodiments of an electrically maneuvered (manually adjustable) lever for controlling a parking brake. One or more sensors detect the position of the lever and effect a braking force corresponding to the position of the lever via a first electric motor. A second electric motor can automatically control the lever depending on input control signals and can lock the lever to prevent manual adjustment.

In stark contrast to the present invention as affirmatively claimed in independent claims 1 and 14, Lundholm does not disclose, teach or suggest subjecting the brake lever to a preload force toward a position between engaged and disengaged positions substantially free of forces urging it into either of the engaged and disengaged positions. There is no such position in Lundholm.

Rather, the citations to Lundholm relied on by the Examiner in the Office Action (i.e., Fig. 11 and col. 5, lines 62-65) actually describe the lever as being subjected to a spring force from full brake-engaged position B to locked (in engaged) position D. That is, in position D, the lever is under a locking engagement force; and position D, notwithstanding that fact that it is itself a brake-engaged position, is most certainly not disposed between fully engaged position B and completely released position A -- there is no such intervening position along the guide slit 45 (*see* Fig. 11).

Accordingly, independent claims 1 and 14 of the present application recite features nowhere found in Lundholm, and Lundholm cannot anticipate independent claims 1 and 14.

The Federal Circuit has instructed that anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *See W.L. Gore & Assocs. v. Garlock, Inc.*, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 841 (1984); *see also Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (requiring that the prior art reference disclose each element of the claimed invention arranged as in the claim). Considering that the switching device and parking brake system of the present invention as claimed in independent claims 1 and 14 differ from the device disclosed in Lundholm, as discussed above, it is respectfully submitted that independent claims 1

and 14 are not anticipated by and are patentable over Lundholm. Notice to this effect is earnestly solicited.

With respect to dependent claims 2-13, we note that the Examiner has made the conclusory allegation that Lundholm teaches all the elements of these rejected claims without pointing to any specific disclosure in the cited reference. In any event, it is submitted that these dependent claims are allowable by virtue of their dependencies from independent claim 1 and for the additional features recited therein; notice to this effect is respectfully requested.

Applicants note that the Examiner cited the following references but did not apply any of them against the claims in the present application:

- Hanson et al. U.S. Patent No.6,213,259;
- Balz et al. U.S. Patent No. 6,702,405;
- McCann et al. U.S. Patent No. 6,382,741; and
- Tachiiri et al. U.S. Patent No. 7,121,633.

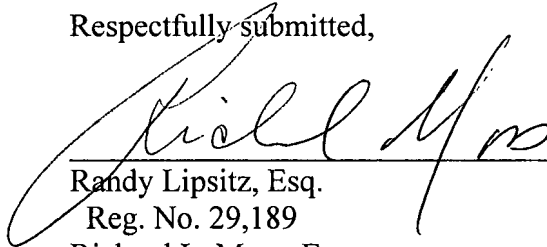
No further comment regarding the foregoing cited but unapplied references is deemed necessary or appropriate at this time.

On the basis of the foregoing amendments and remarks, Applicants respectfully submit that this application is in condition for immediate allowance. Notice to this effect is respectfully requested.

The Examiner is invited to contact Applicants' undersigned attorneys at the telephone number set forth below if it will advance the prosecution of this case.

No fee is believed due with this Response. Please charge any fee deficiency to  
Deposit Account No. 50-0540.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Randy Lipsitz", is written over a horizontal line.

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